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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,940	06/20/2003	Erik A. McMillan	STL.P0002	9444
30163	7590	08/10/2005	EXAMINER	
JOHNSON & ASSOCIATES PO BOX 90698 AUSTIN, TX 78709-0698			EVANS, ANDREA HENCE	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary

Application No.

10/600,940

Applicant(s)

MCMILLAN ET AL.

Examiner

Andrea H. Evans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 38-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 22, 23 and 28-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION
- FINAL REJECTION -
Election/Restrictions

1. Newly submitted claims 38-43 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: These claims are directed to a timer for timing an event that can be used by a different method than the method claimed in claims 1-37 since the timer can be used by a method that does not require examination information.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 38-43 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10,22,23,29,33 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Aronzo (5796681).

Referring to claim 1, Aronzo teaches a method of displaying examination information during one or more portions of an examination, comprising the steps of: providing a timer for timing the duration of the examination and of a portion of the examination (See Column 4, lines 35-37; and Column 6, lines 56-59); providing a warning light to alert the user of an event relating to the operation of the timer (See Column 7, lines 59-63 and Column 3, lines 48-51); tracking the number of questions answered by a user during the portion of the examination and displaying information relating to both the time remaining in the portion of the examination and to the number of questions remaining in the portion of the examination (See Column 7, lines 54-67); activating the warning light in a first manner at a predefined time relative to the end of the examination and activating the same warning light in a second manner at a predefined time relative to the end of the portion of the examination (See Column 3, lines 48-51 and Column 8, lines 10-15). Examiner notes that there are a plural number of LEDs. If one LED is selected as the warning light, the light is lit in the first manner and as time passes it is not lit in the second manner.

Referring to claim 2, Aronzo teaches the method, wherein the displayed information includes an average amount of time remaining per remaining questions. (See Column 5, lines 5-7).

Referring to claim 3, Aronzo teaches the method, wherein the displayed information is a number equal to the time remaining divided by the number of remaining questions. (See Column 5, lines 7-9).

Referring to claim 4, Aronzo teaches the method, further comprising the step of displaying the amount of time elapsed during the portion of the examination. (See Column 4, lines 36-37 and Column 3, lines 44-46).

Referring to claim 5, Aronzo teaches the method, further comprising the step of displaying the amount of time remaining in the portion of the examination. (See Column 4, lines 36-37).

Referring to claim 6, Aronzo teaches the method, further comprising the step of displaying the number of questions answered. (See Column 4, lines 57-59).

Referring to claim 7, Aronzo teaches the method, further comprising the step of displaying the number of questions remaining. (See Column 4, lines 55-57).

Referring to claim 8, Aronzo teaches the method, further comprising the step of providing memory for storing information relating to one or more specific standardized examinations. (See Column 6, lines 3-8).

Referring to claim 9, Aronzo teaches the method, wherein the duration of and the number of questions in the portion of the examination is stored in the memory. (See Column 6, lines 1-26).

Referring to claim 10, Aronzo teaches the method, wherein information relating to a plurality of specific standardized examinations is stored in the memory, the method further comprising the step of allowing a user to select predetermined parameters for an examination based on the stored information. (See Column 6, lines 36-41 and 47-50).

Referring to claim 22, Aronzo teaches a method of displaying information during a timed event having sub-events, comprising the steps of: providing a timer for timing the duration of the

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event (See Column 6, lines 56-59); tracking the number of sub-events during the event (See Column 7, lines 54-57); providing a digital display for displaying information (62; Column 7, lines 17-18) and displaying information on the digital display relating to both the time remaining in the event and to the number of sub-events (See Column 7, lines 25-30; Column 7, lines 66-67; providing a visual indicator separate from the digital display (See Column 7, lines 27-30 and Column 3, lines 47-51); activating the visual indicator to alert a user of the end of a timed period, wherein the user is alerted without using sound (Column 3, lines 47-51).

Referring to claim 23, Aronzo teaches the method wherein the displayed information includes an average amount of time remaining per remaining sub-event. (See Column 8, lines 6-9).

Referring to claim 29, Aronzo teaches the visual indicator is a light (See Column 3, lines 47-51).

Referring to claim 33, Aronzo teaches the method wherein a predefined time at which the warning light activates is selectable by the user (Column 6, lines 51-53).

Referring to claim 37, Aronzo teaches the method wherein the user is alerted without using an audible device (See Column 7, lines 59-6; Column 3, lines 48-51).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aronzo (5796681) in view of Liberman (5642334).

Referring to claim 28, Aronzo teaches a visual indicator (See Column 3, lines 48-51). Aronzo does not teach the method wherein the information is continued to be displayed while the visual indicator is activated. Liberman teaches a method wherein the information is continued to be displayed while the visual indicator is activated. (160, 150, Column 4, lines 43-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the warning light of Aronzo such that the information is continued to be displayed while the visual indicator is activated so that the user can view the information simultaneously with the warning light to recognize why the light is flashing as taught by Liberman.

5. Claims 30,34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aronzo (5796681) in view of Tuke (5813757).

Referring to claims 30 and 34, Aronzo teaches the method further comprising providing a housing (body of 60) having a top surface (top of 60), bottom surface (bottom side of 60), a front surface (front view shown in Figure 4), and a back surface (opposite side of view shown in Figure 4), wherein the digital display (62) is disposed on the front surface.

Aronzo does not teach providing one or more buttons disposed on the top surface of the housing for allowing a user to control the operation of the timer. Tuke teaches a button (9) disposed on the top surface of the housing for allowing a user to control the operation of a timer. (See Column 6, lines 40-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Aronzo such that the power button is disposed on

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the top surface of the housing for allowing a user to control the operation of a timer to avoid accidental starting and restarting of the device as taught by Tuke.

Referring to claim 35, Aronzo teaches all that is claimed as discussed above. Aronzo does not teach wherein the housing of the timer, when viewed from the side, is shaped like a parallelogram with corners that are not right angles. It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the housing of Aronzo such that the housing of the timer, when viewed from the side, is shaped like a parallelogram with corners that are not right angles to aid in supporting the timer. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

6. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aronzo (5796681) in view of Tuke (5813757) and further in view of Cocatre-Zilgien (5844862).

Referring to claim 36, Aronzo in view of Tuke teaches all that is claimed as discussed above. Aronzo teaches the method wherein one of more buttons disposed on the front of the housing includes a sub-event button for allowing a user to time sub-events by pressing the sub-event button during use of the time. (See Column 6, lines 53-59). Aronzo in view of Tuke do not teach the method wherein the sub-event button is on the top surface. Cocatre-Zilgien teaches a sub-event button on the top surface (66, Column 10, lines 13-18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Aronzo such that the sub-event button is on the top surface so that it is easily accessible to the user as taught by Cocatre-Zilgien.

Response to Arguments

7. Applicant's arguments filed 5/26/05 have been fully considered but they are not persuasive. As discussed above, Aronzo teaches a warning light (See Column 3, lines 48-51). Also, Aronzo teaches a digital display (62). Claims 1-10, 22,23, and 28-37 are rejected. Claims 38-43 are withdrawn.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea H. Evans whose telephone number is (571) 272-2162. The examiner can normally be reached on Monday- Friday; 8:30a-5:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrea H. Evans, ESQ

AHE



Daniel J. Colilla
Primary Examiner
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